

REMARKS

Prior to the entry of this Amendment, Claims 1-4 and 6-20 were pending and under consideration. With this Amendment, Claims 1-15, 18 and 19 are being cancelled, without prejudice against their reintroduction into this or one or more timely-filed related applications.

5 Claims 16 and 17 are being amended. Claims 21-31 are newly added. Thus, after entry of this Amendment, Claims 16, 17 and 20-31 are pending and under consideration. The various amendments, objections and rejections are discussed in more detail, below.

The Amendments of the Claims

Claims 1-15, 18 and 19 have been cancelled.

10 Claim 16 was indicated as being allowable if re-written in independent form. Claim 16 as amended includes all of the limitation of the base Claim 1 and intervening Claims 2 and 3.

Claim 17 has been amended to include all of the limitations of parent Claim 1.

Claims 21-31 have been added.

15 Support for the amendments of Claims 16 and 17, and for newly added Claims 21-31, derives from the claims as originally filed or as previously presented. Accordingly, the amendments do not present new matter and entry is proper.

Rejection of Claims 11-12 Under 35 U.S.C. §112, First Paragraph

Claims 11-12 were rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. The rejection is moot owing to the
20 cancellation of these claims.

Rejection of Claims 8 and 13 Under 35 U.S.C. §112, Second Paragraph

Claims 8 and 13 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. The rejection is moot owing to the cancellation of these claims.

Rejection of Claims 1-4, 6, 9, 11, 12, 13-15 and 17-19 Under 35 U.S.C. §103 (a)

Claims 1-4, 6, 9, 11, 12, 13-15 and 17-19 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentably obvious over Layne (U.S. Patent No. 5,841,975) in view of Seilhamer (WO 96/23078). The rejection is moot as applied to claims 1-4, 6, 9, 11, 12, 13-15, 5 18 and 19 owing to their cancellation and traversed as applied to Claim 17. The rejection of Claim 17 is traversed on the ground that the Patent Office has failed to establish a *prima facie* case of obviousness.

In rejecting Claims under §103(a), the Patent Office bears the burden of establishing a *prima facie* case of obviousness (MPEP § 2142). To establish a *prima facie* case, three basic 10 criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine their teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference(s) must teach or suggest each and every limitation of the rejected Claims. The teaching or suggestion to make the Claimed 15 combination *and* the reasonable expectation of success must *both* be found in the prior art, and *not* in Applicants' disclosure. *In re Vaeck*, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP §2142.

Claim 17 includes an element that the method further comprises verifying that the customer is in good standing. "Good standing" is described in the specification (see page 7 lines 9-12) as referring to whether the customer is "registered and credit worthy." The Patent 20 Office maintains that "verification that the customer is in good standing" is described in Layne, and cites col. 11 lines 9-12. However, this passage describes evaluating whether specimens and assays meet "quality control standards," and has absolutely nothing to do with verifying that a customer is in good standing as described in the instant specification.

Neither Layne nor Seilhamer, alone or in combination, teach or suggest methods which 25 include a step of verifying that the customer is in good standing, as recited in amended Claim 17. Therefore the references do not teach each and every limitation of Claim 17. Withdrawal of the rejection of Claim 17 under 35 U.S.C. §103 (a) is therefore requested.

Rejection of Claims 1-4, 6-12, 13-15 and 17-20 Under 35 U.S.C. §103 (a)

Claims 1-4, 6-12, 13-15 and 17-20 were rejected under 35 U.S.C. §103 (a) as allegedly being unpatentably obvious over Layne (U.S. Patent No. 5,841,975) in view of Seilhamer (WO 06/23078) and Pati (WO 99/37755).

5 The rejection is moot as applied to claims 1-15, 18 and 19 owing to their cancellation and traversed as applied to Claims 17 and 20. The rejection of Claims 17 and 20 is traversed on the ground that the Patent Office has failed to establish a *prima facie* case of obviousness.

10 Claims 17 and 20 include an element that the method further comprises verifying that the customer is in good standing. “Good standing” is described in the specification as indicated above.

15 Neither Layne, Seilhamer nor Pati, alone or in combination, teach or suggest methods which include a step of verifying that the customer is in good standing, as recited in Claim 17 and 20. Therefore the references do not teach each and every limitation of Claims 17 and 20. Withdrawal of the rejection of Claims 17 and 20 under 35 U.S.C. 103 (a) is therefore requested.

Newly added Claims

Newly added Claims 21-24 depend ultimately from Claim 16 which was stated as being allowable. Therefore, Claims 21-24 are allowable. Claims 25-31 depend ultimately from Claim 17.

20 **Conclusion**

Applicants submit that amended Claims 16, 17 and 20-31 satisfy all of the statutory requirements for patentability and are in condition for allowance. An early notification of the same is kindly solicited.

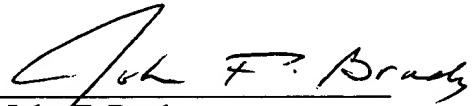
No fees are believed due in connection with this Amendment. However, the Commissioner is authorized to charge any additional required fees, or credit any overpayment, to Dorsey & Whitney LLP Deposit Account No. 50-2319 (Our Order No. A-68957-1/AMP/JFB).

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Respectfully submitted,

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